IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

WEDNESDAY, THE 13TH JUNE 2007 / 23RD JYAISHTA 1929

WP(C).No. 26285 of 2006(D)

PETITIONER:

K.A.JOY,
(H.S.S.T) IN POLITICAL SCIENCE,
PRINCIPAL IN CHARGE, G.H.S.S. PIRAVOM,
ERNAKULAM DISTRICT.

BY ADV. SRI.N.NANDAKUMARA MENON
SRI.P.K.MANOJKUMAR

RESPONDENTS:
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1. THE STATE OF KERALA REPRESENTED BY THE SECRETARY TO GOVERNMENT, GENERAL EDUCATION DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM.

2. THE DIRECTOR OF HIGHER SECONDARY EDUCATION, DIRECTORATE OF HIGHER SECONDARY EDUCATION, HOUSING BOARD BUILDING, SANTHI NAGAR, THIRUVANANTHAPURAM.

3. THE REGIONAL DIRECTOR, HIGHER SECONDARY EDUCATION, EDAPPALLY, ERNAKULAM DISTRICT.

4. P.S.MOHANAN, THE PRESIDENT, PARENT TEACHER ASSOCIATION, G.H.S.S.PIRAVOM, ERNAKULAM DISTRICT.

5. THE SECRETARY, PARENT TEACHER ASSOCIATION, G.H.S.S.PIRAVOM, ERNAKULAM DISTRICT.

6. SABU GEORGE, H.S.S.T. COMMERCE, G.H.S.S.PIRAVOM, ERNAKULAM DISTRICT.

ADDL.*7. SCARIA MATHEW , P.T.A.PRESIDENT DURING THE YEAR 2005-06
GOVT. HIGHER SECONDARY SCHOOL , PIRAVOM
RESIDING AT KUTHIRAVELIL, MARANGOLI P.O
VIA NEEZHOOR, ERNAKULAM DISTRICT
(ADDL. R7 IS IMPLEADED AS PER THE ORDER DATED 6/12/2006 IN I.A. NO. 14266 OF 2006)
BY ADV. SRI.V.PHILIP MATHEW
SRI.KRB.KAIMAL
GOVERNMENT PLEADER SRI. P. NANDAKUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 13/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PETITIONER'S EXHIBITS

Ext.P1: The Photostat copy of the order No.Ad C3/15003 ©/HSE/2005 dated 23-8-2005 issued by the second respondent
Ext.P2: The Photostat copy of the representation dated 4-8-2006 submitted by the petitioner to the second respondent

Ext.P3: The Photostat copy of the transfer order No.Ad C3/15003/II/HSE/2006 dated 16-09-2006 issued by the second respondent

Ext.P4: The Photostat copy of the letter dated 29-9-2006 submitted by the Shri. P.S. Mohanan, P.T.A. President, G.H.S.S. Piravom to the second respondent

Ext.P5: The Photostat copy of the letter dated 29-9-2006 issued by the Headmaster P.T.A. Secretary, G.H.S.S. Piravom to the second respondent

Ext.P6: The Photostat copy of the letter dated 25-9-2006 issued by the petitioner to the second respondent

Ext.P7: The Photostat copy of the Minutes of the meeting of the P.T.A Executive Committee from the very inception of the P.T.A.

Ext.P8: The Photostat copy of the order No. OBO/4693/05-06 dated 16-5-2006 issued by the Assistant Secretary Office of the Banking Ombudsman, Trivandrum

Ext.P9: The Photostat copy of the Order No.Ad C3/15003 (II) HSE/06 dated 8-8-2006 issued by the second respondent

RESPONDENT'S EXHIBITS

Ext.R6(a) : True copy of Notice dated 17-7-2006

Ext.R6 (b) : True copy of complaint dated 4-8-2006from the 6th respondent to the 2nd respondent
Ext.R6(c) : Copy of the representation dated 17-10-2006

Ext.R6(d): Copy of the letter dated 17-10-2006 from the P.T.A.

Ext.R6(e): Copy of the letter dated 27-10-2006 from the Headmaster, GHSS Piravom

Ext.R6(f) : A copy of the memo dated 24-11-2006

Ext.R6(g) : Copy of the Reply dated 30-11-2006

Ext.R7 (a) : True copy of the petitioner dated 27-2-2006 submitted by the applicant

to the 3rd respondent

Ext.R7(b): True copy of the petition dated 8-6-2006 submitted by the applicant to the 3rd respondent

Ext.R7(c) : True copy of the Petition dated 17-7-2006 submitted by the applicant to the 3rd respondent

K.BALAKRISHNAN NAIR,J.

WP(C)NO.26285 OF 2006-D

Judgment

The petitioner is an HSST in Political Science, working in the Government Higher Secondary School, Piravom. He is presently put in charge of the post of Principal. This Writ Petition is filed, challenging Ext.P3 order, by which he has been transferred to Government Higher Secondary School, Namakuzhy, Ernakulam, which is a school in the neighbourhood. The petitioner is more aggrieved by the reasons given for the transfer, than the transfer to the said school. According to him, the findings in Ext.P3 are absolutely unfounded and baseless. The 6th respondent will be put in charge of the post of Principal, if the petitioner is transferred out. So, the said respondent has exerted political influence, manipulated things and caused to issue Ext.P3 transfer order. Therefore, the transfer order is vitiated by mala fides and so, this Court may interfere with the same, it is submitted. The petitioner relied on Ext.P4 letter addressed by the 4th respondent to the Director of Higher Secondary Education, to contend that the President of the PTA has never sent any complaint against him. He also relied on Ext.P5 letter addressed by the PTA Secretary to the Director, which would show that the petitioner never had any occasion to handle funds and therefore, the allegation of misappropriation of PTA funds, against him is baseless. Other contentions are also raised.

2. The sixth respondent has filed counter affidavit, denying the allegations against him. The second respondent has also filed counter affidavit and has also produced a copy of the report, relying on which, the petitioner was transferred out. According to the second respondent, there was difference of opinion between the petitioner and the 6th respondent and therefore, it was found necessary to transfer one of them out, for the smooth functioning of the school. The petitioner has filed reply affidavits, denying the allegations raised against him in the counter affidavits.

3. I heard the learned counsel on both sides. The transfer of the petitioner is made to a nearby school. Further, it is made in exigencies of service also because of the admitted difference of opinion between the petitioner and the 6th respondent. So, there is no reason to interfere with the transfer. But, the grievance of the petitioner is that the findings in Ext.P3, based on which he has been transferred, are baseless.

4. The enquiry was held behind the back of the petitioner and relying on the enquiry report, the findings were entered in Ext.P3. Therefore, I feel that the petitioner should be given a chance to represent against the findings in Ext.P3 and the competent authority should examine the same. Accordingly, it is ordered that if the petitioner files a representation, highlighting his grievances against the findings in Ext.P3, the 2nd respondent

will afford him an opportunity of being heard and pass appropriate orders thereon in accordance with law within two months from the date of receipt of the representation. A regular Principal shall be posted in the school as expeditiously as possible.

The Writ Petition is disposed of as above.

13.06.2007 **K.BALAKRISHNAN NAIR,JUDGE**

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